

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLOTTE BOSWELL,

Plaintiff,

v.

FEDEX CORPORATION,

Defendant.

No. C 04-0098 SI

Related Case C 04-0099 SI

SPECIAL VERDICT
(DRAFT)

We, the jury in the above entitled action, find the following for our special verdict:

(1) SEXUALLY HOSTILE WORK ENVIRONMENT

Question No. 1: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that Norman Stites was her supervisor and that he subjected her to a sexually hostile work environment at FedEx, as defined in these instructions?

Yes _____ No _____

If the answer to Question No. 1 is “no,” please proceed directly to Question No. 6. If the answer to Question No. 1 is “yes,” please proceed to Question No. 2.

Question No. 2: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that as a result of sexual harassment by Norman Stites, she suffered a tangible employment action, as defined in these instructions?

Yes _____ No _____

If the answer to Question No. 2 is “no,” please proceed to Question No. 3 . If the answer to Question No.2 is “yes,” please proceed directly to Question No. 5.

Question No. 3: Did defendant FedEx prove, by a preponderance of the evidence, that FedEx exercised reasonable care to prevent and promptly correct the sexually harassing behavior?

Yes _____ No _____

If the answer to Question No. 3 is "no," please proceed directly to Question No. 5. If the answer to Question No. 3 is "yes," please proceed to Question No. 4.

Question No. 4: Did defendant FedEx prove, by a preponderance of the evidence, that plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by Fed Ex or unreasonably failed to otherwise avoid harm?

Yes _____ No _____

If the answer to Question No. 4 is "no," please proceed to Question No. 5. If the answer to Question No. 4 is "yes," please proceed to Question No. 6.

(2) CONSTRUCTIVE DISCHARGE

Question No. 5: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her working conditions were made so intolerable by the sexually hostile work environment that a reasonable person in plaintiff's position would feel compelled to resign?

Yes _____ No _____

Please proceed to Question No. 6.

(3) RETALIATION

Question No. 6: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that she engaged in activities protected under federal law, such as objecting to sexual advances, requests for sexual conduct or other verbal or physical conduct of a sexual nature?

Yes _____ No _____

If the answer to Question No. 6 is "no," please go directly to Question No. 9. If the answer to Question No. 6 is "yes," please proceed to Question No. 7.

Question No. 7: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that defendant FedEx subjected plaintiff to an adverse employment action, as defined in these instructions?

Yes _____ No _____

If the answer to Question No. 7 is “no,” please go directly to Question No. 9 . If the answer to Question No. 7 is “yes,” please proceed to Question No. 8.

Question No. 8: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her protected activity was a substantial or motivating factor in causing defendant FedEx to take the adverse employment action?

Yes _____ No _____

Please go to Question No. 9.

Question No. 9: [If you answered Question No. 1 “no” and you answered either Question No. 6 or No. 7 or No. 8 “no,” do not answer this question or any further questions; instead, go directly to the end of this form, sign and date it where indicated. Likewise, if you answered both Questions No. 3 and No. 4 “yes” and you answered either Question No. 6 or No. 7 or No. 8 “no,” do not answer this question or any further questions; instead, go directly to the end of this form, sign and date it where indicated Otherwise, please answer the next questions] What amount of damages, if any, did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, was caused to her by FedEx’s actions?

\$ _____.

Question No. 10: Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that defendant FedEx’s conduct toward her were malicious, oppressive or in reckless disregard of her rights, as those terms are defined in these instructions?

Yes _____ No _____

If your answer to Question No. 10 was “no,” do not answer the next question; instead, go directly to the end of this form, sign and date it where indicated. Otherwise, please answer the next question.

Question No. 11: What amount of punitive damages, if any, did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, should be awarded in this case?

\$_____.

Dated: _____

FOREPERSON